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10 Attorneys for Defendant
 VECTRA AI, INC.

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA—SAN JOSE DIVISION**

14 MICHAEL E. STERN, Case No. 5:23-cv-01522-SVK

15 Plaintiff,

16 vs.

17 VECTRA AI, INC.,

18 Defendant.

DECLARATION OF ANNETTE ROSE IN SUPPORT OF DEFENDANT VECTRA AI, INC.’S OPPOSITION TO PLAINTIFF’S SECOND MOTION IN LIMINE, DKT. 154

Pre-Trial Conference

Date: January 23, 2025
 Time: 10:00 a.m.
 Dept.: Courtroom 6

Complaint Filed: March 30, 2023

Retrial Date: January 27, 2025

22 I, Annette Rose, declare as follows:

23 1. I am a partner with the law firm of Gordon Rees Scully Mansukhani LLP. Our
 24 firm is counsel for Defendant Vectra AI, Inc. (“Vectra”). I have personal knowledge of the
 25 facts set forth herein. This declaration is submitted in support of Vectra’s Opposition to
 26 Plaintiff’s *Motion in Limine* No. 2, Dkt. 154.

27 2. On July 20, 2023, Plaintiff Michael Stern (“Stern”) propounded his first set of
 28 request for production of documents on my office. On August 31, 2023, Vectra responded to

1 Stern's requests, by and through my office. Attached as **Exhibit 1** is a true and correct copy of
2 Vectra's responses that also include Stern's requests.

3 3. On November 6, 2023, Stern propounded his second set of request for
4 production of documents on my office. Stern's second set of production was, in part, the
5 result of my meet and confer efforts with Stern's former counsel of record, Hugh McKeegan,
6 related to the pending electronic-discovery. On November 8, 2023, Stern propounded a third
7 set of request for production of documents on Vectra. On December 6, 2023, my office served
8 Vectra's responses to Stern's second request for production of documents and on December 8,
9 2023, my office served Vectra's responses to Stern's third set of request for production of
10 documents. Attached as **Exhibit 2** is a true and correct copy of Vectra's responses to Stern's
11 second and third request for production of documents.

12 4. I engaged in robust meet and confer efforts with Mr. McKeegan regarding the
13 discovery in this case. Our efforts primarily focused on the scope of the ESI discovery given
14 the scope of the document production.

15 5. The documents that Vectra produced after the first trial in this case were not
16 captured by the Parties' ESI search terms. Further, in my opinion, Exhibit 203, which is the
17 subject of Stern's *Motion in Limine* No. 2, Dkt. 154, was not responsive to requests that were
18 reasonably particularized for Vectra to identify and produce them. Vectra discovered the
19 documents that are identified for retrial as Exhibit 203 during the course of the first trial and
20 produced them to Plaintiff's counsel within a reasonable period thereafter.

21 6. During the Court's pretrial conference for the first trial, Vectra identified a text
22 messages exchange between Michael Wilson and Landen Brown that the company intended to
23 admit to establish its non-retaliatory reason for Stern's termination. This document was
24 previously marked as Exhibit 200. During the pretrial conference, the Court sustained Stern's
25 objection to this exhibit and excluded Vectra from introducing the document finding that
26 Vectra's proffer on the document's authentication was insufficient. In light of the Court's
27 prior ruling, Vectra determined that it would need to call Landen Brown to testify about his
28 complaints to Vectra as the Court had excluded the text message based on Stern's objection.

1 Attached as **Exhibit 3** is a true and correct copy of Vectra's previously identified "Exhibit
2 200," which the Court excluded during the first pretrial conference.

3 7. On October 3, 2023, my partner, Michael Laurenson, deposed Plaintiff Michael
4 Stern. My office maintains electronic deposition transcripts and files in the ordinary course of
5 business. Attached as **Exhibit 4** is a true and correct copy of excerpts of the deposition of
6 Michael Stern.

7 8. Vectra only identified Tim Wade during the first trial in light of novel testimony
8 and contentions from Stern and his primary supporting witness, Steve Hill. Tim Wade will
9 testify about Stern's briefings with the Army after the NCR test results were released.

10 I declare under penalty of perjury under the laws of the United States and California
11 that the foregoing is true and correct.

12 Executed this 16th day of January 2025 at Sacramento, California

/s/ Annette L. Rose
Annette L. Rose

Gordon Rees Scully Mansukhani, LLP
315 Pacific Avenue
San Francisco, CA 94111

EXHIBIT 1

1 MICHAEL A. LAURENSON (SBN: 190023)
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6 Attorneys for Defendant
 7 VECTRA AI, INC.

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA—SAN JOSE DIVISION

10 MICHAEL E. STERN,

Case No. 5:23-cv-01522-SVK

11 Plaintiff,

**DEFENDANT VECTRA AI, INC.’S
 RESPONSE TO PLAINTIFF’S FIRST SET
 OF INTERROGATORIES AND FIRST
 REQUESTS FOR PRODUCTION OF
 DOCUMENTS**

12 vs.

13 VECTRA AI, INC.,

14 Defendant.

15 Complaint Filed: March 30, 2023
 Trial Date: October 21, 2024

17 PROPOUNDING PARTY: Plaintiff, MICHAEL E. STERN

18 RESPONDING PARTY: Defendant, VECTRA AI, INC.

19 SET NO.: ONE

20 RESPONSES TO INTERROGATORIES

21 INTERROGATORY NO. 1:

22 Identify all individuals you expect to call at trial or any hearing in this Action and set
 23 forth the facts to which each is expected to testify.

24 RESPONSE TO INTERROGATORY NO. 1

25 Defendant objects that this request calls for speculation and is premature given the fact
 26 that the Parties have not yet completed discovery and Defendant has not yet deposed Plaintiff
 27 to determine the scope of his claims and Vectra’s related defenses. (FRCP, Rule 26(b)(1).)
 28 Defendant also objects to the extent that this request seeks disclosure of attorney work product

1 and/or attorney-client privilege regarding the substance of witnesses' testimony at trial. (FRE
2 Rule 501.) Subject to and without waiving said objections, Defendant responds as follows:

- 3 • Hitesh Sheth: Mr. Sheth is anticipated to testify about Vectra AI, Inc.'s ("Vectra")
4 operations, including Vectra's products and services. Mr. Sheth is also expected to
5 testify about Vectra's offer of employment to Mr. Stern, Vectra's National Cyber
6 Range ("NCR") testing, Mr. Stern's concern, if any, about Vectra's NCR test
7 results, and Vectra's decision to terminate Mr. Stern's employment.
- 8 • Aaron Bean: Mr. Bean is expected to testify about Vectra's policies and procedures
9 regarding anti-discrimination, harassment, and retaliation, and the company's
10 handling of any complaints of same. Mr. Bean is also expected to testify about Mr.
11 Stern's termination, complaints about Mr. Stern's inappropriate workplace conduct,
12 and off boarding.
- 13 • Randy Schirman: Mr. Schirman is expected to testify about Mr. Stern's improper
14 workplace conduct and complaints from Mr. Schirman's colleagues and
15 subordinates about same.
- 16 • Michael Wilson: Mr. Wilson is expected to testify about Mr. Stern's improper
17 workplace conduct and complaints from prospective partners and/or clients about
18 same.
- 19 • Marty Sanders: Mr. Sanders is expected to testify about Mr. Stern's onboarding to
20 Vectra, including proffered information regarding employment and sales
21 opportunities at Vectra. Mr. Sanders is also expected to testify about Mr. Stern's
22 separation from Vectra and the circumstances leading to his termination.
- 23 • Nathan Einwechter – Mr. Einwechter is expected to testify about Vectra's Platform,
24 Vectra's National Cyber Range testing report, and response to same.
- 25 • Zach Vaughn – Mr. Vaughn is expected to testify about Vectra's National Cyber
26 Range testing report and Vectra response to same.

27 Vectra reserves the right to supplement and/or amend these responses as further
28 investigation into the claims and defenses in this Action continue and are ongoing.

INTERROGATORY NO. 2:

Identify all individuals you believe may have any knowledge, information, or documents concerning or relevant to any of the subjects or factual allegations set forth in Plaintiff's Amended Complaint, and describe in detail the knowledge, information, or documents that person may have.

RESPONSE TO INTERROGATORY NO. 2

Defendant objects that this request calls for speculation, overbroad, vague, and is premature given the fact that the Parties have not yet completed discovery. Defendant also objects to the extent that this request seeks disclosure of attorney work product and/or attorney-client privilege regarding the substance of witnesses' testimony at trial. (FRE Rule 501.) Subject to and without waiving said objections, Defendant responds that the answer to this interrogatory would necessitate the examination, compilation, and summarization of extensive electronic business records and the burden of deriving or ascertaining the answer will be substantially the same for either party. Consequently, Vectra responds that they will provide Mr. Stern, by and through his counsel of record, a reasonable opportunity to examine certain responsive ESI records of Mr. Stern, Marty Sanders, Hitesh Sheth, Michael Wilson, Aaron Bean, and Brian Davis' outlook accounts as stipulated and agreed. Vectra also identifies Messrs. Einwechter and Vaughn who have knowledge about the NCR testing and related report, including testing parameters for the Vectra platform. Defendant will produce records regarding the NCR testing and handling of any related report. Nothing in this response shall be construed as Vectra waiving their right to object, narrow, or otherwise meet and confer regarding the ESI search terms proposed by Claimant's counsel and set forth as Exhibit A in Claimant's Request for Production of Documents, Set One.

Vectra reserves the right to supplement and/or amend these responses as further investigation into the claims and defenses in this Action continue and are ongoing.

INTERROGATORY NO. 3:

Identify all persons contributing to your answers to these interrogatories, specifying the answer(s) which he or she helped to prepare.

1 **RESPONSE TO INTERROGATORY NO. 3**

2 Defendant objects that this request seeks disclosure of attorney work product and/or
3 attorney-client privilege regarding the substance of witnesses' testimony at trial. (FRE Rule
4 501.)

5 **INTERROGATORY NO. 4:**

6 Identify all persons that you expect to call as an expert witness at trial or any hearing in
7 this Action.

8 **RESPONSE TO INTERROGATORY NO. 4**

9 Defendant objects that this request is premature as they have not yet had reasonable
10 opportunity to investigate the claims and defenses at issue; thus, Defendant lacks sufficient
11 information and knowledge to respond to this request. Defendant will identify their designated
12 experts, if any, consistent with the Federal Rules of Civil Procedure, Rule 26.

13 **INTERROGATORY NO. 5:**

14 State and describe in detail each and every basis for Defendant's position that Plaintiff
15 failed to adhere to an acceptable code of conduct and/or failed to abide by the company's
16 policies and procedures.

17 **RESPONSE TO INTERROGATORY NO. 5**

18 Defendant responds that Plaintiff failed to adhere to Vectra's acceptable code of
19 conduct in multiple regards, which culminated in his termination. Vectra received multiple
20 complaints from Mr. Stern's colleagues that he routinely and excessively used foul, vulgar,
21 and profane language in the workplace, including, but not limited to use of words, such as,
22 e.g., "fuck," "fuck you," "mother fucker," "fuck you bitch," among other inappropriate
23 language. Vectra is aware that Randy Schirman and Marty Sanders verbally coached Mr.
24 Stern regarding his use of inappropriate language in the workplace, but he continued to use
25 such language nonetheless.

26 Vectra also received complaints from partners and prospective clients that Mr. Stern
27 used similar vulgar and inappropriate language in client meetings, which jeopardized business
28 relationships. In addition, in approximately early-to-mid May 2022, Vectra learned that Mr.

1 Stern had engaged in at least one improper “side deal” that failed to comply with required
2 policies and procedures. Such conduct violated Vectra’s business expectations and ethical
3 code of conduct policy and resulted in unexpected monetary obligations to the organization
4 that had not been properly or appropriately budgeted or vetted.

5 In mid-to-late May 2022, Defendant further responds that Vectra became aware that
6 two female employees in the organization thought that Mr. Stern engaged in inappropriate
7 workplace conduct, including, but not limited to sexual harassment, bullying, and
8 discriminatory conduct. The first complainant reported that Mr. Stern inappropriately shouted,
9 bullied, and otherwise harangued her during a work-related networking event. The
10 complainant reported that Mr. Stern threatened to “get her fired” if she did not adhere to his
11 business practices and demands, shouted profanities at her, and became animated in his
12 conduct to an extent that the employee felt physically threatened and bullied. The complaint
13 corroborated other complaints of Mr. Stern’s ongoing and extensive use of inappropriate and
14 vulgar language in the workplace.

15 Upon investigating the first complaint, Vectra learned of a second, female complainant
16 who reported that Mr. Stern made sexually suggestive comments to her and repeatedly called
17 her at inappropriate times of day, *e.g.*, 2:00 a.m., despite the employees’ request to stop such
18 conduct. The female employee characterized Mr. Stern’s conduct as being harassing based on
19 her sex/gender. The complainants also reported that Mr. Stern engaged in gender-bias
20 conduct, such as inappropriately talking over female executives during meetings,
21 inappropriately using terms, such as “bitch,” during meetings, and excluding female
22 executives from meetings that they otherwise should have attended. A third male employee
23 reported that Mr. Stern showed an inappropriate sexually explicit message on his screen during
24 an internal, remote meeting that was objectively offensive. Vectra determined the complaints
25 to be credible and in violation of their zero tolerance policy against sexual harassment and
26 operating a work environment free to harassment and discrimination based on gender-sex.

27 During Vectra’s investigation, Vectra learned that Mr. Stern’s team generally
28 expressed concerns about his leadership ability and ability to work well with others. At least

1 one of Mr. Stern's colleagues expressed concern that he came to work intoxicated. Based on
 2 Vectra's strict anti-discrimination, harassment, and retaliation policies, prohibition on
 3 workplace bullying and harassment, and general determination that Mr. Stern was performing
 4 in an unsatisfactory manner, Vectra terminated Mr. Stern's employment effective June 3,
 5 2022.

6 Defendant's investigation into the claims and defenses in this lawsuit are ongoing and
 7 Defendant reserves the right to supplement this response, if necessary, as additional responsive
 8 information is determined.

9 **INTERROGATORY NO. 6:**

10 State and describe in detail each and every basis for Defendant's assertion that it would
 11 have terminated Plaintiff even if Plaintiff had not sought remedial action following the 2022
 12 National Cyber Range Testing.

13 **RESPONSE TO INTERROGATORY NO. 6**

14 Defendant objects that this request is argumentative and unintelligible insofar as it
 15 assumes facts not in evidence, particularly with regard to the phrase "... even if Plaintiff had
 16 not sought remedial action following the National Cyber Range Testing." Subject and without
 17 waiving said objections, Defendant incorporates by reference its response to Interrogatory No.
 18 5 as if fully stated herein. Defendant further responds that Mr. Stern's purported "complaint"
 19 about the NCR Testing occurred in approximately early February 2022 – months before his
 20 termination. Vectra's investigation into Mr. Stern's workplace conduct did not occur until
 21 mid-to-late May 2022 and the investigation into his workplace conduct had no relation on the
 22 prior NCR testing, results of said testing, or Mr. Stern's purported "remedial action" of same.

23 Vectra further responds that the NCR results did not report that the Vectra Cognito
 24 product was "defective" or otherwise did not properly work as claimed in this lawsuit. Vectra
 25 disputes that Mr. Stern "sought remedial action" following the NCR testing. Vectra further
 26 responds that Vectra's data science and research teams primarily led the discussions on
 27 interpretation of the NCR test results and further handling of same. Vectra disputes that Mr.
 28 Stern had the technical expertise to take "remedial action" insofar as adjustments or

1 recalibration, if any, to the Vectra product following the NCR test results. Vectra's data
 2 science and research teams provided Mr. Stern, along with other sales team members,
 3 supplemental materials about how to interpret the NCR results and explain, as necessary.

4 Defendant's investigation into the claims and defenses in this lawsuit are ongoing and
 5 Defendant reserves the right to supplement this response, if necessary, as additional responsive
 6 information is determined.

7 **INTERROGATORY NO. 7:**

8 State and describe in detail the reason(s) for Plaintiff's termination known to
 9 Defendant at the time of Plaintiff's termination.

10 **RESPONSE TO INTERROGATORY NO. 7**

11 Defendant incorporates by reference its response to Interrogatory Nos. 5-6 as if fully
 12 stated herein.

13 **INTERROGATORY NO. 8:**

14 Identify each and every individual who played a role in Defendant's decision to
 15 terminate Plaintiff, including a description of the role played by each such individual and
 16 identifying which individual(s) had decision-making authority with respect to Plaintiff's
 17 termination.

18 **RESPONSE TO INTERROGATORY NO. 8**

19 Defendant identifies Vectra CEO, Hitesh Sheth, who is charged with Vectra's overall
 20 corporate decisions, management of operations, and setting of company expectations with
 21 regard to employee conduct.

22 Defendant identifies Vectra Vice President of Human Resources, Aaron Bean, who is
 23 charged with executing Vectra's policies, procedures, and practices pertaining to Human
 24 Resources, including, but not limited to employee compliance of acceptable workplace
 25 conduct.

26 Defendant identifies Mr. Stern's former supervisor, Marty Sanders, who corroborated
 27 Mr. Stern's concerns about his inappropriate workplace conduct.

28 Defendant identifies Randy Schirman, Vice President of Worldwide Channels and

1 Alliances, who raised concerns about complaints of sexual harassment and inappropriate
 2 workplace conduct against Mr. Stern from his female colleagues and subordinates.

3 Defendant's investigation into the claims and defenses in this lawsuit are ongoing and
 4 Defendant reserves the right to supplement this response, if necessary, as additional responsive
 5 information is determined.

6 **INTERROGATORY NO. 9:**

7 Identify all employees who quit or were terminated from Defendant's North American
 8 Sales organization during the period from July 1, 2021, to June 30, 2022, and, if terminated,
 9 the reason(s) for such termination.

10 **RESPONSE TO INTERROGATORY NO. 9**

11 Defendant objects that this request exceeds the permissible scope of discovery as it
 12 seeks information that is not relevant to Mr. Stern's claim nor Vectra's defenses and is not
 13 proportional to the needs of the case, among other basis of objection. (FRCP Rule 26(b).)
 14 Defendant further objects that this request impermissibly invades non-parties' Constitutional
 15 right to privacy in their personnel records and information. (Cal. Const., art. I, § 1.)

16 **INTERROGATORY NO. 10:**

17 Identify all contracts under which Defendant's product was to be or has been provided
 18 to or licensed for use by any customer within the federal government or customer working on
 19 behalf of the federal government for the period July 2021 to present.

20 **RESPONSE TO INTERROGATORY NO. 10**

21 Defendant objects that this request is overbroad, vague and ambiguous, particularly
 22 with regard to the phrase "all contracts under which Defendant's product was to be or has been
 23 provided to or licensed by use by any customer within the federal government or customer
 24 working on behalf of the federal government." Defendant objects that this request exceeds the
 25 permissible scope of discovery as it is not proportional to the needs in the case, considering the
 26 importance of the issues at stake in the action, the amount in controversy, the importance of
 27 the documents in resolving the issues, and that the burden and expense of the requested
 28 discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b).) Defendant further

1 objects that this request seeks disclosure of confidential non-party information that is not
2 relevant to the claims or defenses and therefore imposes an unjustified invasion of privacy into
3 non-party rights and privileges.

4 **INTERROGATORY NO. 11:**

5 State and describe in detail the results of the 2022 National Cyber Range Testing,
6 specifically identifying any instances in which Defendant's product failed to detect a threat or
7 attack and the reasons for such failure.

8 **RESPONSE TO INTERROGATORY NO. 11**

9 Defendant objects that their response to this interrogatory would require an
10 examination, compilation, and summarizing of a business record and the burden of deriving or
11 ascertaining the answer will be substantially the same for either party. Accordingly, Vectra
12 refers Plaintiff to the National Cyber Range Testing Report and TG Real World Testing
13 Guidance from which the answer to this interrogatory may be ascertained or derived in full.
14 (FRCP, Rule 33(d).)

15 **INTERROGATORY NO. 12:**

16 State and describe in detail any steps taken by Defendant following the 2022 National
17 Cyber Range Testing to address, understand, mitigate, troubleshoot, or otherwise remedy any
18 failures or performance deficiencies of Defendant's product that were observed or identified
19 during, through, or as a result of the 2022 National Cyber Range Testing.

20 **RESPONSE TO INTERROGATORY NO. 12**

21 Defendant objects that this request is vague and ambiguous and presumes certain
22 allegations in the complaint are true, which Defendant denies. Consequently, this request is
23 unintelligible and argumentative. Defendant further objects to the extent that this request
24 seeks disclosure of attorney work product or attorney-client privileged information. (FRE Rule
25 501.) Subject to and without waiving said objections, Defendant disputes the characterization
26 of this interrogatory as misleading and argumentative. Vectra responds that they had their data
27 science and research teams review the results of the NCR testing. Vectra held multiple
28 internal meetings with data science, research, sales, and products teams to interpret the NCR

1 results and determine what adjustments, if any, were necessary based on the test results.

2 Product testing, such as the NCR testing, which relies on the signature point of view,
3 results in varied results when used in an assumed compromise system, such as the Vectra
4 product. Following review and interpretation of the NCR test results, which are publically
5 available, Vectra provided their sales/account team additional supporting materials around
6 testing best practices with actual or prospective clients. Vectra's Product Management and
7 Engineer teams were also available to provide support to the sales and accounts teams or
8 clients as needed. Vectra's Product Management and Engineering also continuously work on
9 improving their understanding of detecting malicious activity, improving capabilities, and
10 updating the product, as necessary.

11 **INTERROGATORY NO. 13:**

12 State and describe in detail all facts known by Defendant related to Plaintiff's
13 involvement in any effort by Defendant to address, understand, mitigate, troubleshoot, or
14 otherwise remedy any failures or performance deficiencies of Defendant's product that were
15 observed or identified during, through, or as a result of the 2022 National Cyber Range
16 Testing.

17 **RESPONSE TO INTERROGATORY NO. 13**

18 Defendant responds that Mr. Stern was not involved, in any material capacity, in
19 addressing, understanding, mitigating, troubleshooting, any alleged failure or performance
20 deficiencies of Vectra's platform as observed or identified through the 2022 NCR Testing.
21 Vectra's data science and research teams are primarily tasked with such duties. Vectra's data
22 scientists and research teams provided Mr. Stern, among other sales and product team
23 members, supplemental materials that could be used to discuss or address best testing practices
24 with actual or prospective clients. Vectra encourages prospective clients to use the product in
25 an assumed compromise condition to best display product capability. Defendant further
26 identifies Vectra's testing guide and email correspondence regarding the NCR testing
27 concurrently produced herein from which the answer to this interrogatory could be ascertained
28 or derived.

1 **INTERROGATORY NO. 14:**

2 State and describe in detail all facts known by Defendant, including when Defendant
 3 learned such facts, regarding the minimum number of endpoints in an environment or network
 4 that are required for all of the algorithms used by Defendant's product to be effective.

5 **RESPONSE TO INTERROGATORY NO. 14**

6 Defendant objects that this request is vague and ambiguous and otherwise
 7 unintelligible, particularly with regard to the phrases "the minimum number of endpoints in an
 8 environment or network that are required for all of the algorithms used by Defendant's product
 9 to be effective." Defendant objects that this request exceeds the permissible scope of
 10 discovery as the information sought is not relevant to either the claims or defenses at issue.
 11 Defendant further objects to the extent that this request seeks disclosure of expert opinion.
 12 (FRE 702.) Subject to and without waiving said objections, Vectra responds that this request
 13 is too ambiguous to be answered clearly and directly; accordingly, Vectra responds: "It
 14 depends." If Plaintiff seeks information regarding the Vectra portfolio as a whole, then Vectra
 15 responds that the minimum endpoints could be "1." If Plaintiff seeks information regarding
 16 each individual data detection platform, then Vectra responds that this request is too overbroad
 17 and ambiguous to respond. Vectra further directs Plaintiff to Vectra's testing guide from
 18 which the answer to this interrogatory could be ascertained or derived.

19 **INTERROGATORY NO. 15:**

20 State and describe in detail all facts known by Defendant related to Plaintiff's
 21 prospective employment opportunity with Darktrace Holdings, Ltd., including, but not limited
 22 to, comments made by Michael Wilson to Sally Grant regarding Plaintiff.

23 **RESPONSE TO INTERROGATORY NO. 15**

24 Defendant responds that they do not have any information about Mr. Stern's efforts, if
 25 any, to secure prospective employment with Darktrace Holdings, Ltd. Vectra has no record or
 26 information that Darktrace Holdings, Ltd. contacted Vectra's Human Resources Department
 27 for a reference check. If they had, Vectra would have only confirmed the dates of Mr. Stern's
 28 employment dates and his salary at separation pursuant to company policy.

1 **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

2 **REQUEST FOR PRODUCTION NO. 1:**

3 All documents that you intend to introduce into evidence in support of any dispositive
4 motion or at trial in this Action.

5 **RESPONSE TO REQUEST NO. 1:**

6 Defendant objects that this request is premature, compound, and calls for speculation
7 since Defendant has not yet been able to conduct any reasonable or material discovery into
8 Plaintiff's claims and Vectra's potential defenses. Defendant further objects to the extent that
9 this request seeks disclosure of attorney work product privileged documents. (FRE Rule 501).
10 Defendant objects that this request seeks disclosure of expert opinion or report that Defendant
11 has not yet been able to conduct sufficient discovery to ascertain or determine. (FRE 702.)
12 Defendant objects that this request fails to describe with any reasonable particularity the scope
13 of documents sought. (FRCP Rule 34(b)(1)(A).)

14 **REQUEST FOR PRODUCTION NO. 2:**

15 Plaintiff's complete personnel file.

16 **RESPONSE TO REQUEST NO. 2:**

17 Defendant responds that this request is cumulative and duplicative as Defendant has
18 already produced a true and correct copy of Plaintiff's complete personnel file.

19 **REQUEST FOR PRODUCTION NO. 3:**

20 All communications between or among Stern and any one or more of the Phase I
21 Custodians identified in the attached **Exhibit A**, without regard to any other sender, recipient,
22 or participant in the communication.

23 **RESPONSE TO REQUEST NO. 3:**

24 Defendant objects that this request seeks disclosure of attorney-client and/or attorney
25 work product privileged documents. (FRE Rule 501). Defendant objects that this request fails
26 to describe with any reasonable particularity the scope of documents sought. (FRCP Rule
27 34(b)(1)(A).) Defendant further objects that this request is vague, ambiguous, and
28 unintelligible, and Defendant objects that this request seeks disclosure of documents that are

1 not relevant to the action and are not relevant to the claims and defenses in this matter; thus,
2 they exceed the permissible scope of discovery in this matter. Defendant objects that this
3 request exceeds the permissible scope of discovery as it is not proportional to the needs in the
4 case, considering the importance of the issues at stake in the action, the amount in controversy,
5 the importance of the documents in resolving the issues, and that the burden and expense of
6 the requested discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b).) Subject
7 to and without waiving said objections, Defendant responds that they have retained a third-
8 party ESI liaison to assist with this discovery request. As of the date of these responses, the
9 third-party liaison is still conducting necessary quality control assessment on the data based on
10 its volume. Based on anticipated volume, Defendant anticipates further meet and confer
11 necessary to narrow the scope of this request, among the other related ESI requests.

12 **REQUEST FOR PRODUCTION NO. 4:**

13 All communications relating to or regarding Stern that were sent or received by any
14 one or more of the Phase I Custodians. In your response, please separately identify any and all
15 such communications that involve or include and any one or more of the following
16 individuals:

- 17 • Brad Woodberg
- 18 • Randy Schirman
- 19 • Bonnie Simmons
- 20 • Anastasiya Farr
- 21 • Robert Marcoux
- 22 • Willem Hendrickx
- 23 • Marc Gemassmer
- 24 • Kevin Kennedy
- 25 • Kishore Yerramreddy
- 26 • Zach Vaughn
- 27 • Steve Hill
- 28 • Brett Klees

1 **RESPONSE TO REQUEST NO. 4:**

2 Defendant objects that this request is beyond the scope of discovery that the Parties'
 3 agreed for Phase I as stipulated and ordered by the Court. Defendant objects that this request
 4 fails to describe with any reasonable particularity the scope of documents sought. (FRCP Rule
 5 34(b)(1)(A).) Defendant further objects that this request is vague, ambiguous, and
 6 unintelligible, and Defendant objects that this request seeks disclosure of documents that are
 7 not relevant to the action and are not relevant to the claims and defenses in this matter; thus,
 8 exceed the permissible scope of discovery. Defendant objects that this request exceeds the
 9 permissible scope of discovery as it is not proportional to the needs in the case, considering the
 10 importance of the issues at stake in the action, the amount in controversy, the importance of
 11 the documents in resolving the issues, and that the burden and expense of the requested
 12 discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b).) Defendant objects to
 13 the extent that this request seeks disclosure of attorney-client and/or attorney work product
 14 privileged documents. (FRE Rule 501.) Subject to and without waiving said objections,
 15 Defendant responds that they are agreeable to further meet and confer to determine an
 16 appropriate and reasonable scope of discovery in response to this request.

17 **REQUEST FOR PRODUCTION NO. 5:**

18 All documents or communications relating to Defendant's recruitment of Stern,
 19 including, but not limited to, references to or discussions of Defendant's then-existing or
 20 prospective federal customers; the then-existing sales pipeline for Defendant's Federal DoD
 21 sales region; and Defendant's status with regard to obtaining FedRAMP certification.

22 **RESPONSE TO REQUEST NO. 5:**

23 Defendant objects that this request is vague, ambiguous, and compound and based on
 24 the form the inquiry, the inquiry fails to identify with any reasonable particularity the scope of
 25 documents sought. (FRCP Rule 34(b)(1)(A).) Defendant objects that this request exceeds the
 26 permissible scope of discovery as it is not proportional to the needs in the case, considering the
 27 importance of the issues at stake in the action, the amount in controversy, the importance of
 28 the documents in resolving the issues, and that the burden and expense of the requested

1 discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b).) Subject to and
 2 without waiving said objections, Defendant responds that they are agreeable to further meet
 3 and confer to determine an appropriate and reasonable scope of discovery in response to this
 4 request.

5 **REQUEST FOR PRODUCTION NO. 6:**

6 All pitch decks, sales brochures, or other marketing materials used or distributed by
 7 Defendant's salespeople in marketing Defendant's product to customers within the federal
 8 government for the period July 2021 to present.

9 **RESPONSE TO REQUEST NO. 6:**

10 Defendant objects that this request fails to describe with any reasonable particularity
 11 the scope of documents sought. (FRCP Rule 34(b)(1)(A).) Defendant further objects that this
 12 request is vague, ambiguous, and unintelligible, and Defendant objects that this request seeks
 13 disclosure of documents that are not relevant to the action and are not relevant to the claims
 14 and defenses in this matter; thus, exceed the permissible scope of discovery. (FRCP, Rule
 15 26(b)(1).) Defendant objects that this request exceeds the permissible scope of discovery as it
 16 is not proportional to the needs in the case, considering the importance of the issues at stake in
 17 the action, the amount in controversy, the importance of the documents in resolving the issues,
 18 and that the burden and expense of the requested discovery outweighs any negligible benefit,
 19 if any. (*Ibid.*)

20 **REQUEST FOR PRODUCTION NO. 7:**

21 All contracts under which Defendant's product was to be or has been provided to or
 22 licensed for use by any customer within the federal government or customer working on behalf
 23 of the federal government for the period July 2021 to present.

24 **RESPONSE TO REQUEST NO. 7:**

25 Defendant objects that this request fails to describe with any reasonable particularity
 26 the scope of documents sought. (FRCP Rule 34(b)(1)(A).) Defendant objects that this request
 27 exceeds the permissible scope of discovery as it seeks documents that are not relevant to the
 28 claims and defenses in this action and it is not proportional to the needs in the case,

1 considering the importance of the issues at stake in the action, the amount in controversy, the
 2 importance of the documents in resolving the issues, and that the burden and expense of the
 3 requested discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b)(1).)

4 **REQUEST FOR PRODUCTION NO. 8:**

5 All salesforce.com logs from August 2021 through June 2022 related to Defendant's
 6 federal sales group.

7 **RESPONSE TO REQUEST NO. 8:**

8 Defendant will produce all responsive records in their possession, custody, and/or
 9 control.

10 **REQUEST FOR PRODUCTION NO. 9:**

11 All documents or communications relating to the 2022 National Cyber Range Testing,
 12 including any and all communications between any one or more of the Phase I Custodians and
 13 Defendant's Product Development Team and/or Data Science Team.

14 **RESPONSE TO REQUEST NO. 9:**

15 Defendant objects that the request as pertaining to "Defendant's Product Development
 16 Team and/or Data Science Team" is beyond the scope of Phase I discovery. Defendant further
 17 objects to the extent this request seeks disclosure of attorney-client and/or attorney work
 18 product privileged documents. (FRE 501.) Subject to and without waiving said objections,
 19 Defendant will produce all responsive documents that can be reasonably identified by the
 20 Phase I custodians. Defendant will also produce, to the extent it can reasonably identify at this
 21 stage of litigation, responsive documents from Vectra's Product Development Team and/or
 22 Data Science Team.

23 **REQUEST FOR PRODUCTION NO. 10:**

24 All documents or communications relating to any steps taken by Defendant following
 25 the 2022 National Cyber Range Testing to address, understand, mitigate, troubleshoot, or
 26 otherwise remedy any failures or performance deficiencies of Defendant's product observed
 27 during or discovered as a result of the National Cyber Range testing.

28 ///

1 **RESPONSE TO REQUEST NO. 10:**

2 Defendant objects that the request as pertaining to “Defendant’s Product Development
 3 Team and/or Data Science Team” is beyond the scope of Phase I discovery. Defendant further
 4 objects to the extent this request seeks disclosure of attorney-client and/or attorney work
 5 product privileged documents. (FRE 501.) Subject to and without waiving said objections,
 6 Defendant will produce all responsive documents that can be reasonably identified by the
 7 Phase I custodians. Defendant will also produce, to the extent it can reasonably identify at this
 8 stage of litigation, all non-privileged responsive documents in their possession, custody, and/or
 9 control.

10 **REQUEST FOR PRODUCTION NO. 11:**

11 All documents or communications relating to or referencing efforts made by Plaintiff
 12 to report, disclose, or request corrective action following the 2022 National Cyber Range
 13 Testing.

14 **RESPONSE TO REQUEST NO. 11:**

15 Defendant objects that this request seeks disclosure of attorney-client and/or attorney
 16 work product privileged documents. (FRE Rule 501.) Subject to and without waiving said
 17 objections, Defendant will produce all responsive documents in their possession, custody,
 18 and/or control.

19 **REQUEST FOR PRODUCTION NO. 12:**

20 All documents or communications reflecting any steps taken by Defendant to notify
 21 any customer, whether or not within the federal government, of the results of the 2022
 22 National Cyber Range Testing.

23 **RESPONSE TO REQUEST NO. 12:**

24 Defendant objects to the extent that this request seeks disclosure of attorney-client
 25 and/or attorney work product privileged documents. (FRE Rule 501.) Defendant objects that
 26 this request fails to identify with any reasonable particularity the scope of documents sought,
 27 particularly with regard to the phrase “any steps taken by Defendant to notify any customer,
 28 whether or not within the federal government, of the results of the 2022 National Cyber Range

1 Testing.” (FRCP, Rule 34(b)(1)(A).) Defendant objects that this request exceeds the
2 permissible scope of discovery as it seeks documents that are not relevant to the claims and
3 defenses in this action and it is not proportional to the needs in the case, considering the
4 importance of the issues at stake in the action, the amount in controversy, the importance of
5 the documents in resolving the issues, and that the burden and expense of the requested
6 discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b).) Subject to and
7 without waiving said objections, Defendant responds that they are agreeable to further meet
8 and confer to determine an appropriate and reasonable scope of discovery in response to this
9 request.

10 **REQUEST FOR PRODUCTION NO. 13:**

11 All documents submitted by you or on your behalf and/or received by you, in relation
12 to the claim for unemployment compensation benefits filed by Plaintiff with the Pennsylvania
13 Department of Labor & Industry, Office of Unemployment Compensation Benefits.

14 **RESPONSE TO REQUEST NO. 13:**

15 Defendant responds that they have already produced all responsive documents in their
16 possession, custody, and/or control through their initial disclosures.

17 **REQUEST FOR PRODUCTION NO. 14:**

18 A copy of any and all insurance policies or insurance agreements under which an
19 insurance business may be liable to satisfy all or part of a possible judgment in this action or to
20 indemnify or reimburse for payments made to satisfy such a judgment.

21 **RESPONSE TO REQUEST NO. 14:**

22 Defendant objects that this request exceeds the permissible scope of discovery as it
23 seeks documents that are not relevant to the claims or defenses in this action. (FRCP, Rule
24 26(b).) Defendant objects that this request seeks disclosure of attorney-client and/or attorney
25 work product privileged documents. (FRE Rule 501.) Subject to and without waiving said
26 objections, Defendant responds that they will produce a copy of the declaration page of the
27 applicable insurance policy that may be liable to satisfy all or part of the possible judgment in
28 this action.

REQUEST FOR PRODUCTION NO. 15:

All documents supporting or relating to any affirmative defense raised in your Answer to Plaintiff's Complaint.

RESPONSE TO REQUEST NO. 15:

Defendant objects that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (FRE Rule 501.) Defendant objects that this request improperly seeks disclosure of expert reports and information. (FRE Rule 702.) Defendant objects that this request is premature and overbroad, especially as Defendant has not yet been able to conduct material discovery, including taking Plaintiff's deposition, any third-party witness depositions, or issued any third-party subpoenas that may support their affirmative defenses. Subject to and without waiving said objections, Defendant responds that they will produce non-privileged documents that they can reasonably identify at this stage in the litigation.

REQUEST FOR PRODUCTION NO. 16:

All documents referred to or reviewed in drafting your answers to Plaintiff's First Set of Interrogatories.

RESPONSE TO REQUEST NO. 16:

Defendant objects that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (FRE Rule 501.) Subject to and without waiving said objections, Defendant will produce all non-privileged documents in their possession, custody, and/or control that they can reasonably identify at this stage in the litigation.

REQUEST FOR PRODUCTION NO. 17:

All ESI responsive to the search terms and custodians in the attachment marked as **Exhibit A**, for the date range July 1, 2021, to present.

RESPONSE TO REQUEST NO. 17:

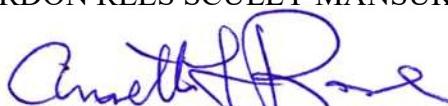
Defendant objects that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (FRE Rule 501). Defendant objects that this request fails to describe with any reasonable particularity the scope of documents sought. (FRCP Rule

1 34(b)(1)(A).) Defendant further objects that this request is vague, ambiguous, and
2 unintelligible, and Defendant objects that this request seeks disclosure of documents that are
3 not relevant to the action and are not relevant to the claims and defenses in this matter; thus,
4 they exceed the permissible scope of discovery in this matter. Defendant objects that this
5 request exceeds the permissible scope of discovery as it is not proportional to the needs in the
6 case, considering the importance of the issues at stake in the action, the amount in controversy,
7 the importance of the documents in resolving the issues, and that the burden and expense of
8 the requested discovery outweighs any negligible benefit, if any. (FRCP, Rule 26(b).) Subject
9 to and without waiving said objections, as of the date of these responses, the third-party liaison
10 is still conducting necessary quality control assessment on the data based on its volume.
11 Based on anticipated volume, Defendant anticipates further meet and confer necessary to
12 narrow the scope of this request, among the other related ESI requests.

13
14 Dated: August 31, 2023

GORDON REES SCULLY MANSUKHANI, LLP

15 By:


Michael A. Laurenson
Annette L. Rose
Attorneys for Defendant
VECTRA AI, INC.

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VERIFICATION

STATE OF CALIFORNIA)
COUNTY OF SAN JOSE)

I, Hitesh Sheth, declare:

I am the President and Chief Executive Officer of **VECTRA AI, INC.**, a corporation organized and existing under the laws of Delaware, which is the Defendant in the above-entitled action. I am authorized to make this verification on its behalf.

I have read the foregoing DEFENDANT VECTRA AI, INC.'S RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS on file herein and know the contents thereof. To the extent I have personal knowledge of the matters set forth therein, the same are true and correct. Insofar as said matters are a composite of the information of many individuals, I do not have personal knowledge concerning all of the information contained in said Response, but I am informed and believe that the information set forth therein for which I lack personal knowledge is true and correct.

I declare under penalty of perjury under the laws of the State of California and federal law that the foregoing is true and correct.

Executed at San Jose, CA on August 31, 2023 | 4:05 PM PDT

DocuSigned by:

Hitesh Sheth
2C18DB28E70324A2...

1 Re: *MICHAEL STERN v. VECTRA AI, INC*
 2 Case No. 5:23-cv-01522-SVK

3 **PROOF OF SERVICE**

4 I am a citizen of the United States. My business address is 3 Parkcenter Drive, Suite 200,
 5 Sacramento, California 95825. I am employed in the City and County of Sacramento where this
 6 service occurs. I am over the age of 18 years and not a party to the within action. I am readily
 7 familiar with my employer's normal business practice for collection and processing of
 8 correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence
 9 is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary
 10 course of business.

11 On August 31, 2023, following ordinary business practice, I served a true copy of the
 12 foregoing document(s) described as:

13 **DEFENDANT VECTRA AI, INC.'S RESPONSE TO PLAINTIFF'S FIRST SET OF
 14 INTERROGATORIES AND FIRST REQUESTS FOR PRODUCTION OF
 15 DOCUMENTS**

- 16 MAIL: I caused such envelope(s) with postage thereon fully prepaid to be placed in the
 17 United States mail at Sacramento, California to the offices of the addressee(s) listed
 18 below:
- 19 PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand this date to
 20 the offices of the addressee(s).
- 21 OVERNIGHT DELIVERY: I caused such envelope(s) to be delivered to an overnight
 22 delivery carrier with delivery fees provided for, addressed to the person(s) on whom it
 23 is to be served.
- 24 BY EMAIL OR ELECTRONIC TRANSMISSION: I caused the documents to be
 25 sent to the person(s) at the E-Mail address(es) listed below. I did not receive, within a
 26 reasonable time after the transmission, any electronic message or other indication that
 27 the transmission was unsuccessful.

28 ***Attorneys for Plaintiff Michael Stern***

Michael Pepperman
 Daniel Unterburger
 Obermayer Rebmann Maxwell & Hippel LLP
 1500 Market Street Suite 3400
 Philadelphia, PA 19102
 T: 215-665-3032
michael.pepperman@obermayer.com
daniel.unterburger@obermayer.com

I declare under penalty of perjury under the laws of the State of California that the
 foregoing is true and correct.

Executed on August 31, 2023, at Sacramento, California.



VERONICA WHITAKER

EXHIBIT 2

1 MICHAEL A. LAURENSON (SBN: 190023)
 2 ANNETTE L. ROSE (SBN: 311274)
 3 GORDON REES SCULLY MANSUKHANI, LLP
 4 275 Battery Street, Suite 2000
 5 San Francisco, CA 94111
 Telephone: (415) 986-5900
 Facsimile: (415) 986-8054
mlaurenson@grsm.com
arose@grsm.com

6 Attorneys for Defendant
 7 VECTRA AI, INC.

8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA—SAN JOSE DIVISION**

10 MICHAEL E. STERN,

Case No. 5:23-cv-01522-SVK

11 Plaintiff,

**DEFENDANT VECTRA AI, INC.’S
 RESPONSE TO PLAINTIFF’S SECOND
 REQUESTS FOR PRODUCTION OF
 DOCUMENTS**

12 vs.

13 VECTRA AI, INC.,

14 Defendant.

15 Complaint Filed: March 30, 2023
 Trial Date: October 21, 2024

16 PROPOUNDING PARTY: Plaintiff, MICHAEL E. STERN

17 RESPONDING PARTY: Defendant, VECTRA AI, INC.

18 SET NO.: TWO

19 **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

20 **REQUEST FOR PRODUCTION NO. 1:**

21 Any and all calendars, whether physical or electronic, kept or maintained by or for
 22 Stern, Aaron Bean, Marty Sanders, Brian Davis, Hitesh Sheth, Zachary Vaughn, Nathan
 23 Einwechter, Brad Woodberg, Bonnie Simmons, and/or Ana Farr for the period February 1,
 24 2022, through August 31, 2022. This request does not seek production of any personal or
 25 family calendars or calendar entries. To the extent personal or family calendar entries are
 26 redacted from a calendar otherwise responsive to this request, please identify those entries as
 27 such with an appropriate redaction marking on the document itself or in an appropriate
 28 privilege log.

RESPONSE TO REQUEST NO. 1:

Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks extensive documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Defendant objects to the extent this request impermissibly invades non-parties' Constitutional right to privacy. (Cal. Const., art. I, § 1.) Subject to and without waiving said objections, Defendant responds that they will produce all responsive, non-privileged documents in their possession, custody, and/or control that are relevant to the claims and defenses in this action and proportional to the needs of the case.

REQUEST FOR PRODUCTION NO. 2:

Any and all communications, dated from on or about March 1, 2022, to June 3, 2022, regarding or relating to Stern being appointed to the position of interim federal sales leader, including, but not limited to, the April 29, 2022, e-mail in which Sanders communicated Stern's appointment to the federal sales team.

RESPONSE TO REQUEST NO. 2:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant cannot identify any responsive documents in their possession, custody, and/or control. Defendant's investigation are ongoing and continuous and Defendant reserves the right to supplement or amend this responsive if responsive documents are later discovered.

REQUEST FOR PRODUCTION NO. 3:

A copy of the consulting agreement between Vectra and Marty Sanders.

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RESPONSE TO REQUEST NO. 3:

Defendant objects that this request seeks documents beyond the permissible scope of discovery as this request seeks extensive documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Defendant objects that this request invades third-party right to privacy. (Cal. Const., art. I, § 1.)

REQUEST FOR PRODUCTION NO. 4:

Any and all documents, communications, or other records containing or reflecting communications by, between, or among Aaron Bean, Marty Sanders, Randy Schirman, Michael Wilson, Hitesh Sheth, Ana Farr, and/or Bonnie Simmons regarding either Stern's alleged workplace misconduct, Vectra's alleged investigation of same, and/or Stern's termination.

RESPONSE TO REQUEST NO. 4:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant will permit the request as requested and produce all responsive documents that can be identified in their possession, custody, and/or control.

REQUEST FOR PRODUCTION NO. 5:

Any and all documents, communications, or other records containing, reflecting, or discussing any purported “counseling” provided to Stern by Randy Schirman or Marty Sanders regarding any of the alleged workplace conduct issues identified in Vectra’s response to Plaintiff’s Interrogatory No. 5.

RESPONSE TO REQUEST NO. 5:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc.

1 § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said
2 objections, Defendant cannot identify any responsive documents in their possession, custody,
3 and/or control. Defendant's investigation are ongoing and continuous and Defendant reserves
4 the right to supplement or amend this responsive if responsive documents are later discovered.

REQUEST FOR PRODUCTION NO. 6:

All communications between Stern and either (a) Bonnie Simmons or (b) Ana Farr for the period March 1, 2022, through June 3, 2022.

RESPONSE TO REQUEST NO. 6:

Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks extensive documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Subject to and without waiving said objections, Defendant responds that they will produce all responsive documents in their possession, custody, and/or control that are relevant to the claims and defenses in this action and proportional to the needs of the case.

REQUEST FOR PRODUCTION NO. 7:

Any and all documents, communications, or other records showing the dates on which any and all interviews taken in connection with Vectra's alleged investigation of Stern were conducted and the individuals who participated in said interviews.

RESPONSE TO REQUEST NO. 7:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant will permit the request as requested and produce all non-responsive documents, if any, that can be identified in their possession, custody, and/or control. Defendant will also produce a privilege log for any responsive, but privileged, responsive documents, pursuant to the Parties' meet and confer.

REQUEST FOR PRODUCTION NO. 8:

Any and all documents, communications, or other records showing the dates on which Vectra executives first became aware of the specific instances of alleged misconduct described in Vectra's response to Plaintiff's Interrogatory No. 5.

RESPONSE TO REQUEST NO. 8:

Defendant objects that the phrase “Vectra executives” is vague and ambiguous, especially in the context of this litigation; thus, Defendant objects that this request fails to identify with any reasonable particularity the scope of documents sought. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant will permit the request as requested and produce all responsive documents that can be identified in their possession, custody, and/or control. Defendant will also produce a privilege log for any responsive, but privileged, responsive documents, pursuant to the Parties’ meet and confer.

REQUEST FOR PRODUCTION NO. 9:

Any and all documents, communications, or other records containing or reflecting communications between Stern and Randy Schirman regarding any purported “side deal” related to or involving the consultant Jim Neighbors and Vectra’s distributor, Carahsoft.

RESPONSE TO REQUEST NO. 9:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant will permit the request as requested and produce all responsive documents that can be identified in their possession, custody, and/or control.

REQUEST FOR PRODUCTION NO. 10:

Any and all documents, communications, or other records relating to or regarding Vectra's alleged investigation of Stern's purported workplace misconduct. To the extent you

1 contend any such documents are privileged, please identify them on an appropriate privilege
 2 log.

3 **RESPONSE TO REQUEST NO. 10:**

4 Defendant objects to the extent that this request seeks disclosure of attorney-client
 5 and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc.
 6 § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said
 7 objections, Defendant will permit the request as requested and produce all responsive
 8 documents that can be identified in their possession, custody, and/or control. Defendant further
 9 responds that for any responsive, but privileged documents, Defendant will provide a privilege
 10 log consistent with the Parties' meet and confer.

11 **REQUEST FOR PRODUCTION NO. 11:**

12 Any and all documents, communications, or other records sent or received by Zachary
 13 Vaughn, Brad Woodberg, and/or Nathan Einwechter relating to or regarding the NCR Test
 14 and/or NCR Test results and/or known or suspected limitations of the Vectra product for the
 15 period December 1, 2021, through June 1, 2022.

16 **RESPONSE TO REQUEST NO. 11:**

17 Defendant objects to the extent that this request seeks disclosure of attorney-client
 18 and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc.
 19 § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Defendant objects that this request is
 20 cumulative and duplicative of other discovery already provided in this matter; thus, this
 21 request seeks only to impose undue burden and expense on Defendant and is not proportional
 22 to the needs of the case. Defendant further responds that they have already permitted
 23 inspection of the records demanded, which have been produced to Plaintiff through his counsel
 24 of record. To the extent that further responsive documents are identified, Defendant will
 25 permit the request as requested and produce all responsive documents in their possession,
 26 custody, and/or control.

27 ///

28 ///

REQUEST FOR PRODUCTION NO. 12:

Any and all documents or communications between Marty Sanders and Zachary Vaughn regarding or relating to the NCR test for the period February 1, 2022, through June 30, 2022.

RESPONSE TO REQUEST NO. 12:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant cannot identify any responsive documents in their possession, custody, and/or control. Defendant's investigation is continuous and ongoing and Defendant reserves the right to supplement this response if later responsive documents are discovered.

REQUEST FOR PRODUCTION NO. 13:

Any and all documents or communications that support or substantiate Vectra's statement that the NCR Test results are "publicly available." *See* Response to Interrogatory No. 12.

RESPONSE TO REQUEST NO. 13:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant objects that this request is cumulative and duplicative of other discovery already provided in this matter; thus, this request seeks only to impose undue burden and expense on Defendant and is not proportionate to the needs of the case. Defendant further responds that they have already permitted inspection of the records demanded, which have been produced to Plaintiff through his counsel of record. To the extent that further responsive documents are identified, Defendant will permit the request as requested and produce all responsive documents in their possession, custody, and/or control.

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REQUEST FOR PRODUCTION NO. 14:

Any and all documents or communications that support or substantiate Vectra's statement that the NCR Test "relie[d] on the signature point of view." *See* Response to Interrogatory No. 12.

RESPONSE TO REQUEST NO. 14:

Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant responds that based on the overbroad and vague nature of this request, they cannot determine the scope of responsive documents in their possession, custody, and/or control and invite Plaintiff to meet and confer over the scope of this request.

REQUEST FOR PRODUCTION NO. 15:

Any and all documents, communications, or other records showing the date by which Vectra first knew, became aware of, or suspected that its product may not be fully effective below the approximately 100 IP “floor” described by Steve Hill.

RESPONSE TO REQUEST NO. 15:

Defendant objects that this request is unintelligible insofar as it presumes certain allegations by non-parties are true, which Defendant denies. Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-

1 client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ.
 2 Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said
 3 objections, Defendant responds that based on the overbroad and vague nature of this request,
 4 they cannot determine the scope of responsive documents in their possession, custody, and/or
 5 control and invite Plaintiff to meet and confer over the scope of this request.

6 **REQUEST FOR PRODUCTION NO. 16:**

7 Any and all documents, communications, or other records showing the date by which
 8 Vectra informed members of its federal sales teams of the approximately 100 IP “floor” for its
 9 product to be effective.

10 **RESPONSE TO REQUEST NO. 16:**

11 Defendant objects that this request is unintelligible insofar as it presumes certain
 12 allegations are true, which Defendant denies. Defendant objects that this request fails to
 13 identify with any reasonable particularity each item or category of items to be inspected. (Fed.
 14 Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks
 15 documents beyond the permissible scope of discovery as this request seeks documents that are
 16 not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).)
 17 Defendant objects to the extent that this request seeks disclosure of attorney-client and/or
 18 attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. §
 19 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections,
 20 Defendant responds that based on the overbroad and vague nature of this request, they cannot
 21 determine the scope of responsive documents in their possession, custody, and/or control and
 22 invite Plaintiff to meet and confer over the scope of this request.

23 **REQUEST FOR PRODUCTION NO. 17:**

24 Any and all documents, communications, or other records relating to or reflecting
 25 information provided by Vectra to its federal sales staff regarding any previously undisclosed
 26 limitations of its product for the period February 1, 2022, to present. To avoid any confusion,
 27 “previously undisclosed limitations” is meant to refer to any limitation that had not been
 28 disclosed to the federal sales staff before the date of the disclosure.

Gordon Rees Scully Mansukhani, LLP
 275 Battery Street, Suite 2000
 San Francisco, CA 94111

1 RESPONSE TO REQUEST NO. 17:

Defendant objects that this request is unintelligible insofar as it presumes certain allegations are true, which Defendant denies. Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030; Fed. Rules Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant responds that based on the overbroad and vague nature of this request, they cannot determine the scope of responsive documents in their possession, custody, and/or control and invite Plaintiff to meet and confer over the scope of this request.

14 REQUEST FOR PRODUCTION NO. 18:

Any and all documents, communications, or other records relating to or reflecting the reasons for Brian Davis' departure from Vectra.

17 RESPONSE TO REQUEST NO. 18:

Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks extensive documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030.) Defendant objects that this request invades third-party right to privacy. (Cal. Const., art. I, § 1.)

24 REQUEST FOR PRODUCTION NO. 19:

Any and all documents, communications, or other records relating to or reflecting communications between Marty Sanders and Brian Davis regarding Vectra's federal DOD sales pipeline for the period July 1, 2021, through December 31, 2021.

28 // /

RESPONSE TO REQUEST NO. 19:

Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030.) Subject to and without waiving said objections, Defendant will permit the request as requested and produce all responsive documents that can be identified in their possession, custody, and/or control.

REQUEST FOR PRODUCTION NO. 20:

Any and all documents, communications, or other records relating to or reflecting communications between Marty Sanders and Brian Davis regarding the termination or separation of any member of Vectra's federal DOD sales team for the period July 1, 2021, through October 31, 2021.

RESPONSE TO REQUEST NO. 20:

Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks extensive documents that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. § 2018.030.) Defendant objects that this request invades third-party right to privacy. (Cal. Const., art. I, § 1.)

REQUEST FOR PRODUCTION NO. 21:

Any and all documents, communications, or other records relating to or reflecting communications by or involving Chris Howard that discuss or refer to Stern.

RESPONSE TO REQUEST NO. 21:

Defendant objects that this request fails to identify with any reasonable particularity each item or category of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant further objects that this request seeks documents beyond the permissible scope of discovery as this request seeks documents that are not relevant to the claim or defense of any

1 party. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant objects to the extent that this request
 2 seeks disclosure of attorney-client and/or attorney work product privileged documents. (Evid.
 3 Code §§ 954-956; Code Civ. Proc. § 2018.030.)

4 **REQUEST FOR PRODUCTION NO. 22:**

5 Any and all documents, communications, or other records relating to or reflecting
 6 communications involving Chris Howard that discuss, refer, or relate to the NCR Test, the
 7 NCR Test results, or any known or suspected limitations on the effectiveness of Vectra's
 8 product with regard to the size of the environment in which the product is deployed.

9 **RESPONSE TO REQUEST NO. 22:**

10 Defendant objects to the extent that this request seeks disclosure of attorney-client
 11 and/or attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc.
 12 § 2018.030.) Subject to and without waiving said objections, Defendant cannot identify any
 13 responsive records in their possession, custody, and/or control.

14 **REQUEST FOR PRODUCTION NO. 23:**

15 All documents and ESI responsive to the search terms and parameters set forth in
 16 Exhibit A (attached). Plaintiff's counsel requests that Defendant's counsel identify date(s).

17 **RESPONSE TO REQUEST NO. 23:**

18 Defendant objects that the phrase "Plaintiff's counsel requests that Defendant's counsel
 19 identify dates," is vague and ambiguous rendering this request unintelligible. Defendant
 20 objects that this request fails to identify with any reasonable particularity each item or category
 21 of items to be inspected. (Fed. Rules Civ. Proc., Rule 34(b)(1)(A)-(C).) Defendant objects that
 22 the burden and expense of this request is disproportional to the needs of the case, considering
 23 the importance of the discovery in resolving issues and the proposed discovery outweighs its
 24 likely benefit. (Fed. Rules Civ. Proc. § 26(b)(1).) Defendant further objects that this request
 25 seeks documents beyond the permissible scope of discovery as this request seeks documents
 26 that are not relevant to the claim or defense of any party. (Fed. Rules Civ. Proc., Rule
 27 26(b)(1).) Defendant objects that this request seeks disclosure of attorney-client and/or
 28 attorney work product privileged documents. (Evid. Code §§ 954-956; Code Civ. Proc. §

1 2018.030.)

2 Subject to and without waiving said objections, Defendant responds that the production
3 of documents demanded in this request are not proportional to the Parties' needs in this case as
4 the proposed search terms have yielded in excess of 6,500 documents with hits and in excess
5 of 10,000 total documents with hits, including groups. The scope of these requested document
6 production, coupled with the more than 5,500 documents that have already been produced by
7 Defendant in this case, as well as the additional documents from this set of demands and
8 Plaintiff's pending third set of discovery, is unduly burdensome and disproportionate to the
9 Parties' needs of this single-plaintiff claim. Defendant objects to such excessive discovery as
10 requested – given the claims and issues, the cumulative nature of these requests, and that the
11 burden and expense of this requested discovery outweigh its likely benefit. Defendant is
12 amenable to further meet and confer to narrow a more reasonable and proportionate scope of
13 discovery.

14

15 Dated: December 6, 2023

GORDON REES SCULLY MANSUKHANI, LLP

16 By: 

17 Michael A. Laurenson
18 Annette L. Rose
19 Attorneys for Defendant
20 VECTRA AI, INC.
21
22
23
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25
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27
28

1 Re: *MICHAEL STERN v. VECTRA AI, INC*
 2 Case No. 5:23-cv-01522-SVK

3 **PROOF OF SERVICE**

4 I am a citizen of the United States. My business address is 3 Parkcenter Drive, Suite 200,
 5 Sacramento, California 95825. I am employed in the City and County of Sacramento where this
 6 service occurs. I am over the age of 18 years and not a party to the within action. I am readily
 7 familiar with my employer's normal business practice for collection and processing of
 8 correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence
 9 is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary
 10 course of business.

11 On December 6, 2023, following ordinary business practice, I served a true copy of the
 12 foregoing document(s) described as:

13 **DEFENDANT VECTRA AI, INC.'S RESPONSE TO PLAINTIFF'S SECOND
 14 REQUESTS FOR PRODUCTION OF DOCUMENTS**

- 15 MAIL: I caused such envelope(s) with postage thereon fully prepaid to be placed in the
 16 United States mail at Sacramento, California to the offices of the addressee(s) listed
 17 below:
- 18 PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand this date to
 19 the offices of the addressee(s).
- 20 OVERNIGHT DELIVERY: I caused such envelope(s) to be delivered to an overnight
 21 delivery carrier with delivery fees provided for, addressed to the person(s) on whom it
 22 is to be served.
- 23 **BY EMAIL OR ELECTRONIC TRANSMISSION:** I caused the documents to be
 24 sent to the person(s) at the E-Mail address(es) listed below. I did not receive, within a
 25 reasonable time after the transmission, any electronic message or other indication that
 26 the transmission was unsuccessful.

Attorneys for Plaintiff Michael Stern Bruce C. Fox Hugh T. McKeegan Obermayer Rebmann Maxwell & Hippel LLP 525 William Penn Place, Suite 1710 Pittsburgh, PA 15219 T: (412) 566-1500; F: (412) 281-1530 bruce.fox@obermayer.com hugh.mckeegan@obermayer.com	Attorneys for Plaintiff Michael Stern Chaka Okadigbo HKM Employment Attorneys LLP 700 S. Flower Street, Suite 1067 Los Angeles, CA 90017 T/F: (213) 431-6209 cokadigbo@hkm.com
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27 I declare under penalty of perjury under the laws of the State of California that the
 28 foregoing is true and correct.

29 Executed on December 6, 2023, at Sacramento, California.

30 
 31 VERONICA WHITAKER

1 MICHAEL A. LAURENSEN (SBN: 190023)
 2 ANNETTE L. ROSE (SBN: 311274)
 3 GORDON REES SCULLY MANSUKHANI, LLP
 4 275 Battery Street, Suite 2000
 5 San Francisco, CA 94111
 Telephone: (415) 986-5900
 Facsimile: (415) 986-8054
mlaurenson@grsm.com
arose@grsm.com

6 Attorneys for Defendant
 7 VECTRA AI, INC.

		UNITED STATES DISTRICT COURT
		NORTHERN DISTRICT OF CALIFORNIA—SAN JOSE DIVISION
10	MICHAEL E. STERN,	Case No. 5:23-cv-01522-SVK
11	Plaintiff,	DEFENDANT VECTRA AI, INC.’S
12	vs.	RESPONSE TO PLAINTIFF’S SECOND
13	VECTRA AI, INC.,	SET OF INTERROGATORIES AND
14	Defendant.	THIRD REQUEST FOR PRODUCTION
15		Complaint Filed: March 30, 2023
		Trial Date: October 21, 2024

16 PROPOUNDING PARTY: Plaintiff, MICHAEL E. STERN

17 RESPONDING PARTY: Defendant, VECTRA AI, INC.

18 SET NO.: Second Interrogatories / Third Request for Production

19 **RESPONSES TO SECOND INTERROGATORIES**

20 **INTERROGATORY NO. 16:**

21 State the total dollar amount of Defendant’s sales to federal Department of Defense
 22 (“DOD”) customers for each year during the period 2018-2023.

23 **RESPONSE TO INTERROGATORY NO. 16**

24 Defendant objects that this request exceeds the permissible scope of discovery insofar
 25 as it seeks disclosure of information that is not relevant to the claims and defenses at issue in
 26 this action and is not proportional, particularly with regard to “Defendant’s sales to federal
 27 Department of Defense” customers that are beyond Plaintiff’s employment tenure with Vectra.
 28 (Fed. Rul. Civ. Proc., Rule 26(b).) Vectra further objects that the information sought in this

1 discovery is confidential, private, and otherwise constitutes an unwarranted invasion into
 2 Defendant's right to privacy in their financial and customer information. (See generally
 3 *Roberts v. Gulf Oil Corp.*, 147 Cal.App.3d. 770, 796 (1983).) Subject to and without waiving
 4 said objections, Defendant responds that they will produce business records during the
 5 relevant period from which the answer to this interrogatory may be derived or obtained in
 6 relevant part and which the burden and expense on each party would be substantially the same.
 7 (Fed. Rules Civ. Proc., Rule 33(d).)

8 **INTERROGATORY NO. 17:**

9 State the number of new customers Defendant's Federal DOD business acquired each
 10 year during the period 2018-2023.

11 **RESPONSE TO INTERROGATORY NO. 17**

12 Defendant objects that this request exceeds the permissible scope of discovery insofar
 13 as it seeks disclosure of information that is not relevant to the claims and defenses at issue in
 14 this action or seeks information beyond Plaintiff's employment tenure with Vectra. (Fed. Rul.
 15 Civ. Proc., Rule 26(b).) Defendant's also object that this request is vague and is not
 16 proportional to the needs of the case, particularly with regard to the ambiguity in calculating or
 17 summarizing the "number of new customers" in Defendant's "Federal DOD business" is
 18 unclear given the process and circumstances of acquiring Federal DOD customers. (Fed. Rul.
 19 Civ. Proc., Rule 26(b).) Vectra further objects that the information sought in this discovery is
 20 confidential, private, and otherwise constitutes an unwarranted invasion into Defendant's right
 21 to privacy in their financial and customer information. (See generally *Roberts v. Gulf Oil*
 22 *Corp.*, 147 Cal.App.3d. 770, 796.) Subject to and without waiving said objections, Defendant
 23 responds that they will produce business records during the relevant period from which the
 24 answer to this interrogatory may be derived or obtained in relevant part and which the burden
 25 and expense on each party would be substantially the same. (Fed. Rules Civ. Proc., Rule
 26 33(d).)

27 ///

28 ///

Gordon Rees Scully Mansukhani, LLP
 275 Battery Street, Suite 2000
 San Francisco, CA 94111

INTERROGATORY NO. 18:

State the number of individuals working for Defendant (either as independent contractors or employees) in each of the company's departments/divisions (e.g., marketing, product management, data science, security research, etc.) for each year during the period 2020-2023.

RESPONSE TO INTERROGATORY NO. 18

Defendant objects that this request exceeds the permissible scope of discovery insofar as it seeks disclosure of information that is not relevant to the claims and defenses at issue in this action or seeks information beyond Plaintiff's employment tenure with Vectra. (Fed. Rul. Civ. Proc., Rule 26(b).) Subject to and without waiving said objections, Defendant responds that they will produce business records during the relevant period from which the answer to this interrogatory may be derived or obtained in full and which the burden and expense on each party would be substantially the same. (Fed. Rules Civ. Proc., Rule 33(d).)

RESPONSES TO THIRD REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Defendant's annual budget for each year during the period 2020-2023.

RESPONSE TO REQUEST NO. 1:

Defendant objects that this request exceeds the permissible scope of discovery as it seeks documents are not relevant to the claims or defenses in this action. (Fed. Rules Civ. Proc., Rule 26(b)(1).) Defendant is willing to meet and confer about a reasonable scope of discovery pertaining to this request.

REQUEST FOR PRODUCTION NO. 2:

Any and all documents or communications referred to or reviewed in preparing your responses to Plaintiff's Second Set of Interrogatories.

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RESPONSE TO REQUEST NO. 2:

Defendant objects that this request seeks disclosure of attorney-client privileged and attorney work product privileged documents. (Code Civ. Proc. § 2018.030; Evid. Code §§954-956.)

Dated: December 8, 2023

GORDON REES SCULLY MANSUKHANI, LLP

By:

Michael A. Laurenson

Annette L. Rose

Attorneys for Defendant

VECTRA AI, INC.

Gordon Rees Scully Mansukhani, LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111

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3 **VERIFICATION TO FOLLOW**
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Gordon Rees Scully Mansukhani, LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111

1 Re: *MICHAEL STERN v. VECTRA AI, INC*
 2 Case No. 5:23-cv-01522-SVK

3 **PROOF OF SERVICE**

4 I am a citizen of the United States. My business address is 3 Parkcenter Drive, Suite 200,
 5 Sacramento, California 95825. I am employed in the City and County of Sacramento where this
 6 service occurs. I am over the age of 18 years and not a party to the within action. I am readily
 7 familiar with my employer's normal business practice for collection and processing of
 8 correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence
 9 is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary
 10 course of business.

11 On December 8, 2023, following ordinary business practice, I served a true copy of the
 12 foregoing document(s) described as:

13 **DEFENDANT VECTRA AI, INC.'S RESPONSE TO PLAINTIFF'S SECOND SET OF
 14 INTERROGATORIES AND THIRD REQUEST FOR PRODUCTION**

- 15 MAIL: I caused such envelope(s) with postage thereon fully prepaid to be placed in the
 16 United States mail at Sacramento, California to the offices of the addressee(s) listed
 17 below:
- 18 PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand this date to
 19 the offices of the addressee(s).
- 20 OVERNIGHT DELIVERY: I caused such envelope(s) to be delivered to an overnight
 21 delivery carrier with delivery fees provided for, addressed to the person(s) on whom it
 22 is to be served.
- 23 **BY EMAIL OR ELECTRONIC TRANSMISSION:** I caused the documents to be
 24 sent to the person(s) at the E-Mail address(es) listed below. I did not receive, within a
 25 reasonable time after the transmission, any electronic message or other indication that
 26 the transmission was unsuccessful.

Attorneys for Plaintiff Michael Stern Bruce C. Fox Hugh T. McKeegan Obermayer Rebmann Maxwell & Hippel LLP 525 William Penn Place, Suite 1710 Pittsburgh, PA 15219 T: (412) 566-1500; F: (412) 281-1530 bruce.fox@obermayer.com hugh.mckeegan@obermayer.com	Attorneys for Plaintiff Michael Stern Chaka Okadigbo HKM Employment Attorneys LLP 700 S. Flower Street, Suite 1067 Los Angeles, CA 90017 T/F: (213) 431-6209 cokadigbo@hkm.com
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27 I declare under penalty of perjury under the laws of the State of California that the
 28 foregoing is true and correct.

29 Executed on December 8, 2023, at Sacramento, California.

30 
 31 VERONICA WHITAKER

EXHIBIT 3



LB

Landen Brown @



Stern is a classic example today

8:01 pm

I can't get over his "pet my massive dick" comments

Over and over again 8:01 pm

I'd call HR with that shit. Like, wow

8:01 pm

Just wild

"Either you're going to pet this dick and give me what I want or you can fuck off- toodle loo"

Mind blowingly inappropriate for any work setting.

You and me, in private, not working, at a bar after 6 drinks- considerable.

Anything else? Offensive

8:03 pm

No, really? 8:05 pm

Yeah. Context- he was saying if we deliver on big deals to management then Fed has the power to ask for what we want. Horrible analogy he is sticking to though

8:06 pm

Wow 8:08 pm



Signal message



← M Melanie Tuscher why you video lea^{94%} :

Tuesday, Jun 7, 2022 • 5:57 PM

Ha ha!

Stern is going to try and spread all the rumors he can.

It sounded ugly

Between you and me sometimes seemed like a liability.

Stern?

10000%

Yeah

We didn't see eye to eye, at all.

Not sure there were a lot of fans

Glad you've got some executive cooperation

Saturday, Dec 31 • 11:23 AM

Merry Christmas and happy new year old friend! I hope the new gig is treating you well and



Text message



EXHIBIT 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

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MICHAEL STERN,

Plaintiff,

vs.

No: 5:23-cv-01522-SVK

VECTRA AI, INC.,

Defendant.

/

VIDEOTAPED REMOTE ZOOM DEPOSITION OF MICHAEL STERN

Taken before CAROL SCHILP

CSR NO. 9648

October 3, 2023

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1 VIDEOTAPED REMOTE ZOOM DEPOSITION OF MICHAEL STERN
2

3 BE IT REMEMBERED, that pursuant to Notice, and on
4 the 3rd day of October 2023, commencing at the hour of
5 12:50 p.m., before me, CAROL SCHILP, a Certified
6 Shorthand Reporter, remotely appeared MICHAEL STERN,
7 produced as a witness in said action, and being by me
8 first duly sworn, was thereupon examined as a witness in
9 said cause.

10
11 ---oo---

12
13 APPEARANCES:

14 For the Plaintiff:

15 BRUCE C. FOX (present with witness)

16 HUGH T. McKEEGAN (via Zoom)

17 Obermayer Rebmann Maxwell & Hippel LLP

525 William Penn Place, Suite 1710

Pittsburgh, PA 15219

412-566-1500

Bruce.fox@obermayer.com

Hugh.mckeegan@obermayer.com

18
19 For the Defendant:

20 MICHAEL ALAN LAURENSON (via Zoom)

21 ANNETTE L. ROSE (via Zoom)

22 Gordon & Rees LLP

1111 Broadway, Suite 1700

23 Oakland, CA 94607-4023

510-463-8711

24 Mlaurendon@grsm.com

25 Arose@grsm.com

1 Also Present:

2 JILL WARREN, Videographer; Aaron Bean

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1 THE VIDEOGRAPHER: Good afternoon. We are on
2 the record at 12:50 p.m. Eastern time on Tuesday,
3 October 3, 2023.

4 Please note this deposition is being conducted
5 remotely using virtual technology. Quality of recording 12:50:21
6 depends on the participants' quality of equipment and
7 Internet connections.

8 The deponent and what is heard on screen will
9 be recorded. Audio and video recording will continue to
10 take place until all parties agree to go off the record. 12:50:38

11 This is the beginning of media number one of
12 the video-recorded deposition of Michael Stern, taken by
13 counsel for defendant in the matter of Michael Stern,
14 plaintiff, versus Vectra AI, Inc., defendant, filed with
15 the United States District Court, Northern District of 12:51:00
16 California, San Jose Division, case number
17 5:23-cv-01522-SVK.

18 My name is Jill Warren, and I'm the
19 videographer. The court reporter is Carol Schilp, and
20 we are representing Veritext Legal Solutions. 12:51:21

21 If there are any objections to proceeding,
22 please state them at the time of your appearance.

23 Beginning with the noticing attorney, please
24 state your appearance.

25 MR. LAURENSEN: Mike Laurenson of Gordon & Rees 12:51:34

1 on behalf of Defendant Vectra. I'm joined today by
2 Annette Rose of my office and Aaron Bean of Vectra.

3 MR. FOX: Bruce Fox on behalf of the plaintiff,
4 Michael Stern. Participating remotely is my colleague,
5 Hugh McKeegan.

12:51:53

6 THE VIDEOGRAPHER: Thank you. The court
7 reporter will administer the oath. Then counsel may
8 proceed.

9 MICHAEL STERN,
10 sworn as a witness,
11 testified as follows

12 THE WITNESS: Yes.

13 EXAMINATION BY MR. LAURENSEN:

14 Q. Good afternoon, Mr. Stern.

15 A. Good afternoon -- well, good morning, good 12:52:14
16 afternoon, Counsel.

17 Q. Have you ever had your deposition taken before?

18 A. Yes, sir.

19 Q. Okay. On how many prior occasions?

20 A. One.

Q. And you were also present over the last couple days for the depositions of Aaron Bean and Steve Hill?

23 A. Yes, sir, I was.

24 Q. Were you present for the entirety of both of
25 those depositions?

12:52:39

1 Q. -- following the NCR test results. And I'm
2 asking you to explain to me how you had to "tread
3 lightly."

4 A. Well, I wasn't going to allow Sharkcage -- you
5 know, Vectra to be deployed on a -- on a Naval vessel, 17:11:22
6 for instance, without getting --

7 Q. But that didn't occur.

8 A. But that's what I meant --

9 Q. But that didn't occur so I'm --

10 A. -- by treading lightly. I mean -- 17:11:31

11 Q. Okay.

12 A. -- you could still go through the sales
13 process, but selling and deploying are two separate
14 things, Counsel.

15 Q. Did you actually change or do differently 17:11:38
16 anything about your job after the NCR test results?

17 A. No, not fundamentally, no.

18 Q. Okay.

19 A. No, same thing.

20 Q. I'm not talking fundamentally. I'm talking in 17:11:50
21 any way?

22 A. No. We were still building pipeline. We were
23 still going out there and going to the trade shows and
24 doing all that stuff. No.

25 Q. And so did you -- did -- following the NCR test 17:12:03

1 results, did you say anything to any potential customer
2 that was a misrepresentation?

3 A. No.

4 Q. So how is that possible? I don't -- explain to
5 me how it's possible for the NCR test to reveal 17:12:27
6 fundamental vulnerabilities in the product --

7 A. Uh-huh.

8 Q. -- but for you to be able to sell it exactly
9 the same as you had before without making any
10 misrepresentations? How is that possible? 17:12:41

11 A. Because, Counsel, I'll remind you that I told
12 you that I was still operating under the belief that we
13 would successfully identify the root cause or causes for
14 it, that I was still operating and believing that other
15 people were operating in good faith, that, yes, somehow, 17:12:57
16 someday we'll get to the bottom of this, per Marty
17 Sanders. There was only towards --

18 Q. So how do you know that there's -- how do you
19 know there's actually a problem? How do you know that
20 what Nathan said in his e-mail isn't the truth and 17:13:11
21 there's not actually a problem with the product, but a
22 product with the -- a problem with the test? Do you
23 actually know that that's not true?

24 A. Well, part of the problem is Vectra never
25 re-created the test, which you would think after -- 17:13:23